

ESTTA Tracking number: **ESTTA578636**

Filing date: **12/23/2013**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Notice of Opposition

Notice is hereby given that the following party opposes registration of the indicated application.

Opposer Information

Name	StubHub, Inc.
Granted to Date of previous extension	12/22/2013
Address	199 Fremont Street, 4th Floor San Francisco, CA 94105 UNITED STATES

Attorney information	Bobby A. Ghajar and Marcus D. Peterson Pillsbury Winthrop Shaw Pittman LLP 725 S. Figueroa St., Suite 2800 Los Angeles, CA 90017 UNITED STATES Bobby.Ghajar@pillsburylaw.com, Marcus.Peterson@pillsburylaw.com, Docket_IP@pillsburylaw.com Phone:213-488-7100
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Applicant Information

Application No	85799520	Publication date	06/25/2013
Opposition Filing Date	12/23/2013	Opposition Period Ends	12/22/2013
Applicant	Goody Tickets LLC 6600 College Blvd., Suite 128 Overland Park, KS 66211 KS		

Goods/Services Affected by Opposition


Class 035. First Use: 2012/05/31 First Use In Commerce: 2012/05/31
All goods and services in the class are opposed, namely: Operating on-line marketplaces featuring tickets for sporting events, entertainment events and concerts


Grounds for Opposition

False suggestion of a connection	Trademark Act section 2(a)
Priority and likelihood of confusion	Trademark Act section 2(d)
Dilution	Trademark Act section 43(c)


Marks Cited by Opposer as Basis for Opposition

U.S. Registration No.	2558703	Application Date	06/08/2001
Registration Date	04/09/2002	Foreign Priority Date	NONE

Word Mark	STUBHUB
Design Mark	
Description of Mark	NONE
Goods/Services	Class 035. First use: First Use: 2000/10/03 First Use In Commerce: 2001/01/18 On line marketplace for sellers and buyers of tickets for sporting events, musical concerts and other entertainment events

U.S. Registration No.	2870113	Application Date	03/21/2002
Registration Date	08/03/2004	Foreign Priority Date	NONE
Word Mark	STUB HUB		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 035. First use: First Use: 2002/05/28 First Use In Commerce: 2002/05/28 Online ticket marketplace for sellers and buyers of tickets for sporting events, musical concerts and other entertainment events		

U.S. Registration No.	3262511	Application Date	05/23/2005
Registration Date	07/10/2007	Foreign Priority Date	NONE
Word Mark	STUBHUB!		

Design Mark	
Description of Mark	NONE
Goods/Services	Class 035. First use: First Use: 2005/07/30 First Use In Commerce: 2005/07/30 On-line ticket marketplace for sellers and buyers of tickets for sporting events, musical concerts and other entertainment events

Attachments	76269327#TMSN.gif(bytes) 76385238#TMSN.gif(bytes) 78635517#TMSN.jpeg(bytes) STUB-STUB Notice of Opposition (and exhibits).pdf(1503842 bytes)
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Certificate of Service

The undersigned hereby certifies that a copy of this paper has been served upon all parties, at their address record by First Class Mail on this date.

Signature	/Marcus Peterson/
Name	Bobby A. Ghajar and Marcus D. Peterson
Date	12/23/2013

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

In re Application of:	§	International Class: 35
Goody Tickets, LLC	§	
	§	Published: June 25, 2013
Serial No.: 85/799,520	§	
	§	
Filed: December 11, 2012	§	
	§	
Mark: STUB-STUB TICKETS	§	

Commissioner for Trademarks
P. O. Box 1451
Alexandria, VA 22313-1451

NOTICE OF OPPOSITION

Madam:

Opposer StubHub, Inc. is a Delaware corporation with its principal place of business at 199 Fremont Street, Floor 4, San Francisco, California 94105 (“Opposer” or “StubHub”). StubHub believes that it will be damaged by the registration of the mark shown in Application Serial No. 85/799,520, filed December 11, 2012 by Goody Tickets, LLC (“Applicant”) and hereby opposes this application under the provisions of 15 U.S.C. § 1063 (as amended).

The Commissioner for Trademarks is hereby authorized to draw on the deposit account No. 03-3975, Ref. 073478.0000010/Peterson for any necessary fees.

Application Serial No. 85/799,520 was filed on December 11, 2012 for the mark STUB-STUB TICKETS (hereinafter “the STUB-STUB Mark”) for “Operating on-line marketplaces featuring tickets for sporting events, entertainment events and concerts” in International Class 35. The application was published for opposition on June 25, 2013.

A request for extension of time was filed through December 22, 2013, which was a Sunday. Therefore, this Notice of Opposition is timely filed on December 23, 2013. *See* TBMP §112; 37 CFR §2.196.

As grounds for the opposition, it is alleged that:

STUBHUB'S BUSINESS AND ITS MARKS

1. StubHub is the world's largest ticket marketplace, enabling fans to buy and sell tickets to tens of thousands of sports, concert, theater and other live entertainment events. StubHub's unique online marketplace is dedicated solely to tickets and provides its fans with the ability to buy and/or sell tickets in a safe, convenient, reliable environment. The company has partnered with such famous professional sports teams as the Detroit Tigers and San Francisco Giants baseball teams, the Philadelphia 76ers basketball team, the Los Angeles Kings hockey team, and with college sports teams from universities such as the University of Southern California and the University of Alabama, as well as numerous other teams from Major League Baseball, the National Basketball Association, the National Hockey League, and the National Collegiate Athletic Association. StubHub has also partnered with venues like Staples Center as well as with numerous well-known musicians, comedians and live performers.

2. StubHub is the owner of U.S. Trademark Registration No. 2,558,703 for the mark STUBHUB for "on line marketplace for sellers and buyers of tickets for sporting events, musical concerts and other entertainment events" in International Class 35, issued on April 9, 2002 on the Principal Register; U.S. Trademark Registration No. 2,870,113 for the mark STUB HUB for "online ticket marketplace for sellers and buyers of tickets for sporting events, musical concerts and other entertainment events" in International Class 35, issued on August 3, 2004 on the Principal Register; U.S. Trademark Registration No. 3,262,511 for the mark STUBHUB! (Stylized) for "on-line ticket marketplace for sellers and buyers of tickets for sporting events, musical concerts and other entertainment events" in International Class 35, issued on July 10,

2007 on the Principal Register. Copies of these registrations are appended to this Notice of Opposition as Exhibits A, B, and C. These registrations are valid and subsisting, and are now incontestable under the provisions of 15 U.S.C. §1065.

3. StubHub has continuously used the fanciful mark STUBHUB and variations thereof (“the STUBHUB Marks”) in interstate commerce in the United States in connection with its services since as early as January 2001.

4. StubHub also has extensive common law rights in the STUBHUB Marks, and uses these marks in connection with its services throughout the United States. STUBHUB also serves as the company’s trade name.

5. StubHub has made extensive use of its mark throughout the United States and, as a result, the public strongly associates the STUBHUB Marks with StubHub.

6. As a result of StubHub’s successful growth and expanded adoption by numerous professional and collegiate sports teams, professional entertainers and charity events, StubHub has a considerable degree of consumer recognition for its STUBHUB Marks and trade name, along with an increasingly strong and loyal base of customers that enjoys its services. It is believed that STUBHUB is famous among the general consuming public.

APPLICANT AND ITS PENDING APPLICATION

7. Applicant seeks to register the mark STUB-STUB TICKETS in connection with “Operating on-line marketplaces featuring tickets for sporting events, entertainment events and concerts” in International Class 35. The application was published for opposition on June 25, 2013.

8. The STUB-STUB Mark is highly similar to the fanciful STUBHUB Marks in sight and sound. By using six out of seven of the same letters in StubHub’s mark and trade name in the identical order and pattern of letters, Applicant has created a mark that emulates, evokes, and calls to mind the STUBHUB Marks.

9. The services offered under the STUB-STUB Mark are identical to those provided by StubHub. StubHub provides an online marketplace for selling and buying tickets to sports and live entertainment events. Upon information and belief, Applicant registered the domain names stub-hub-tickets.com, stub-stub-tickets.com and stubstubtickets.com, and is currently using the mark STUB STUB TICKETS in connection with ticket sales on the website www.stub-stub-tickets.com. Thus, Applicant's services are marketed in a manner similar to StubHub's services and target the same consumers.

10. Applicant selected the STUB-STUB Mark with knowledge and intent to cause confusion with the STUBHUB Marks. Applicant had actual knowledge and notice of StubHub's rights prior to adopting or using the STUB-STUB Mark. In fact, Applicant had previously registered a StubHub seller's account and agreed to abide by StubHub's terms and conditions (including avoiding violations of StubHub's trademarks), prior to adopting the STUB-STUB Mark. Further, as indicated above, Applicant not only registered as a domain name the mark STUB-STUB TICKETS, but also registered StubHub's **actual** registered trademark, stub-hub-tickets.com, which is further evidence of Applicant's intent.

11. StubHub is not affiliated or connected with Applicant or its services, nor has StubHub endorsed or sponsored Applicant or its services.

12. There is no issue as to priority of use. StubHub began using its STUBHUB Marks, and enjoys priority as a result of the filing dates of its trademark registrations, prior to the filing date of the application for the STUB-STUB Mark.

**FIRST GROUND FOR OPPOSITION:
LIKELIHOOD OF CONFUSION**

13. StubHub incorporates by reference paragraphs 1 through 12, inclusive, as if fully set forth here.

14. Registration of Applicant's mark will injure StubHub by causing the public to be confused or mistaken into believing that the services provided by Applicant are endorsed, licensed, or sponsored by StubHub, or that Applicant's services are affiliated with StubHub. Contrary to the suggestion created by the use of the STUB-STUB Mark, StubHub is neither affiliated with nor a sponsor of Applicant, and the services identified in the opposed application do not originate from StubHub.

15. StubHub has no control over the nature and quality of the services offered by Applicant under the confusingly similar STUB-STUB Mark, and StubHub's reputation and goodwill will be damaged and the value of the STUBHUB Marks jeopardized, all to StubHub's detriment.

16. Any defect, objection or fault found with Applicant's services marketed under the STUB-STUB Mark would necessarily reflect upon and seriously injure the reputation that StubHub has established for the goods and services it offers in connection with the STUBHUB Marks.

17. Accordingly, registration of the mark herein opposed will damage StubHub because Applicant's mark is likely, when used on or in connection with the services described in the opposed application, to cause confusion, or to cause mistake or to deceive. Thus, Applicant's mark is unregistrable under Sections 2(d) and 3 of the United States Trademark Act, as amended, 15 U.S.C. §§1052 and 1053, and should be refused registration.

**SECOND GROUND FOR OPPOSITION:
DILUTION OF A FAMOUS MARK**

18. StubHub incorporates by reference paragraphs 1 through 17, inclusive, as if fully set forth here.

19. Applicant uses the STUB-STUB Mark in commerce in the United States, as stated in the application herein opposed.

20. STUBHUB is a fanciful mark and is thus highly distinctive of StubHub's goods and services.

21. The STUBHUB Marks are used and promoted on various websites throughout the internet and in various other media, including radio, television, and print advertisements and unsolicited press mentions. The STUBHUB Marks have enjoyed extensive media attention and have a high degree of consumer recognition.

22. Apart from unauthorized infringing uses of such marks, which StubHub actively and diligently polices through its enforcement program, there is no material use of any highly similar mark by others.

23. Accordingly, when the public encounters the term STUBHUB, it immediately associates the term with StubHub, and thus the STUBHUB Marks are famous.

24. Upon information and belief, the STUBHUB Marks became famous before Applicant first used or applied to register the STUB-STUB Mark.

25. The STUBHUB and STUB-STUB Marks are virtually identical, and if Applicant and others are permitted to register marks similar to the STUBHUB Marks, the proliferation of such marks will blur and weaken the connection in consumers' minds between the STUBHUB Marks and StubHub's goods and services.

26. Upon information and belief, Applicant intended to create an association between its STUB-STUB Mark and StubHub's STUBHUB Marks and trade name.

27. Accordingly, registration of the mark herein opposed is likely to dilute the distinctive quality of StubHub's famous STUBHUB Marks. Thus Applicant's mark is unregistrable pursuant to Sections 2(a)(d), 3, 13, and 43(c) of the United States Trademark Act, as amended, 15 U.S.C. §§1052(a)(d), 1053, 1063, 1125, and should be refused registration.


WHEREFORE, StubHub requests that Application Serial No. 85/799,520 be rejected, and

that no registration be issued in connection with this application, and that this opposition be sustained in favor of StubHub.

Respectfully submitted,

STUBHUB, INC.

Date: December 23, 2013

By: 
Bobby A. Ghajar
Marcus Peterson
Pillsbury Winthrop Shaw Pittman LLP
725 S. Figueroa St., Suite 2800
Los Angeles, CA 90017
(213) 488-7410
Attorneys for Opposer

CERTIFICATE OF ELECTRONIC TRANSMISSION

DATE OF DEPOSIT: December 23, 2013

I hereby certify that this correspondence is being filed electronically via the Electronic System for Trademark Trials and Appeals (ESTTA) on the date shown above:


Marcus Peterson

CERTIFICATE OF SERVICE VIA MAIL

I, Marcus Peterson, of Pillsbury Winthrop Shaw Pittman LLP, attorneys for Opposer StubHub, Inc., hereby certify that a true and complete copy of the foregoing NOTICE OF OPPOSITION was served on Applicant's counsel of record, Dianne Smith-Misemer, Hovey Williams LLP, 10801 Mastin St., Suite 1000, Overland Park, Kansas 66210 via postage prepaid by first-class mail on December 23, 2013.

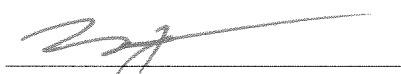

Marcus Peterson

EXHIBIT A



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Typed Drawing

Word Mark	STUBHUB
Goods and Services	IC 035. US 100 101 102. G & S: On line marketplace for sellers and buyers of tickets for sporting events, musical concerts and other entertainment events. FIRST USE: 20001003. FIRST USE IN COMMERCE: 20010118
Mark Drawing Code	(1) TYPED DRAWING
Serial Number	76269327
Filing Date	June 8, 2001
Current Basis	1A
Original Filing Basis	1A
Published for Opposition	January 15, 2002
Registration Number	2558703
Registration Date	April 9, 2002
Owner	(REGISTRANT) Liquid Seats, Inc. CORPORATION DELAWARE 2398 Jerrold Avenue Suite 200 San Francisco CALIFORNIA 94124 (LAST LISTED OWNER) STUBHUB, INC. CORPORATION DELAWARE 199 Fremont Street, 4th Floor San Francisco CALIFORNIA 94105
Assignment Recorded	ASSIGNMENT RECORDED
Attorney of Record	Jennifer M. Lantz and James R. Cady
Type of Mark	SERVICE MARK
Register	PRINCIPAL
Affidavit Text	SECT 15. SECT 8 (6-YR). SECTION 8(10-YR) 20120421.
Renewal	1ST RENEWAL 20120421 LIVE

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Int. Cl.: 35

Prior U.S. Cls.: 100, 101 and 102

Reg. No. 2,558,703

United States Patent and Trademark Office

Registered Apr. 9, 2002

**SERVICE MARK
PRINCIPAL REGISTER**

STUBHUB

LIQUID SEATS, INC. (DELAWARE CORPORATION)
2398 JERROLD AVENUE SUITE 200
SAN FRANCISCO, CA 94124

FIRST USE 10-3-2000; IN COMMERCE 1-18-2001.

SER. NO. 76-269,327, FILED 6-8-2001.

FOR: ON LINE MARKETPLACE FOR SELLERS
AND BUYERS OF TICKETS FOR SPORTING
EVENTS, MUSICAL CONCERTS AND OTHER ENTERTAINMENT
EVENTS, IN CLASS 35 (U.S. CLS. 100, 101 AND 102).

JOHN SCHUYLER YARD, EXAMINING ATTORNEY

EXHIBIT B



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Typed Drawing

Word Mark	STUB HUB
Goods and Services	IC 035. US 100 101 102. G & S: Online ticket marketplace for sellers and buyers of tickets for sporting events, musical concerts and other entertainment events. FIRST USE: 20020528. FIRST USE IN COMMERCE: 20020528
Mark Drawing Code	(1) TYPED DRAWING
Serial Number	76385238
Filing Date	March 21, 2002
Current Basis	1A
Original Filing Basis	1B
Published for Opposition	October 8, 2002
Registration Number	2870113
Registration Date	August 3, 2004
Owner	(REGISTRANT) STUBHUB, INC. CORPORATION DELAWARE 199 Fremont Street, Suite 300 San Francisco CALIFORNIA 94105
Assignment Recorded	ASSIGNMENT RECORDED
Attorney of Record	Jennifer M. Lantz and James R. Cady
Prior Registrations	2558703
Type of Mark	SERVICE MARK
Register	PRINCIPAL
Affidavit Text	SECT 15. SECT 8 (6-YR).
Live/Dead Indicator	LIVE

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Int. Cl.: 35

Prior U.S. Cls.: 100, 101, and 102

United States Patent and Trademark Office

Reg. No. 2,870,113

Registered Aug. 3, 2004

**SERVICE MARK
PRINCIPAL REGISTER**

STUB HUB

STUBHUB, INC. (DELAWARE CORPORATION)
3435 CESAR CHAVEZ
SUITE 206
SAN FRANCISCO, CA 94110

FIRST USE 5-28-2002; IN COMMERCE 5-28-2002.

OWNER OF U.S. REG. NO. 2,558,703.

FOR: ONLINE TICKET MARKETPLACE FOR
SELLERS AND BUYERS OF TICKETS FOR SPORT-
ING EVENTS, MUSICAL CONCERTS AND OTHER
ENTERTAINMENT EVENTS, IN CLASS 35 (U.S. CLS.
100, 101 AND 102).

SN 76-385,238, FILED 3-21-2002.

MARY BOAGNI, EXAMINING ATTORNEY

EXHIBIT C



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Word Mark	STUBHUB!
Goods and Services	IC 035. US 100 101 102. G & S: On-line ticket marketplace for sellers and buyers of tickets for sporting events, musical concerts and other entertainment events. FIRST USE: 20050730. FIRST USE IN COMMERCE: 20050730
Mark Drawing Code	(5) WORDS, LETTERS, AND/OR NUMBERS IN STYLIZED FORM
Serial Number	78635517
Filing Date	May 23, 2005
Current Basis	1A
Original Filing Basis	1B
Published for Opposition	May 16, 2006
Registration Number	3262511
Registration Date	July 10, 2007
Owner	(REGISTRANT) StubHub, Inc. CORPORATION DELAWARE 199 Fremont Street, 4th Floor San Francisco CALIFORNIA 94105
Attorney of Record	Jennifer M. Lantz and James R. Cady
Prior Registrations	2558703;2870113
Description of Mark	Color is not claimed as a feature of the mark. The stippling is a feature of the mark.
Type of Mark	SERVICE MARK
Register	PRINCIPAL

Affidavit Text SECT 15. SECT 8 (6-YR).
**Live/Dead
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Int. Cl.: 35

Prior U.S. Cls.: 100, 101, and 102

Reg. No. 3,262,511

United States Patent and Trademark Office

Registered July 10, 2007

**SERVICE MARK
PRINCIPAL REGISTER**



STUBHUB, INC. (DELAWARE CORPORATION)
55 2ND STREET, SUITE 300
SAN FRANCISCO, CA 94105

OWNER OF U.S. REG. NOS. 2,558,703 AND
2,870,113.

FOR: ON-LINE TICKET MARKETPLACE FOR
SELLERS AND BUYERS OF TICKETS FOR SPORT-
ING EVENTS, MUSICAL CONCERTS AND OTHER
ENTERTAINMENT EVENTS, IN CLASS 35 (U.S. CLS.
100, 101 AND 102).

THE STIPPLING IS A FEATURE OF THE MARK.

SN 78-635,517, FILED 5-23-2005.

FIRST USE 7-30-2005; IN COMMERCE 7-30-2005.

AMOS T. MATTHEWS, JR., EXAMINING ATTOR-
NEY